

UNITED STATES DISTRICT COURT
DISTRICT OF PUERTO RICO

UNITED STATES OF AMERICA,

Plaintiff,

v.

TROPICAL FRUIT, S.E.;
AVSHALOM LUBIN;
CESAR OTERO ACEVEDO; and
PEDRO TOLEDO GONZALEZ,

Defendants.

Civil Action No. 97-1442-DRD

UNITED STATES' MOTION TO ENTER SETTLEMENT AGREEMENT

Plaintiff, United States of America, respectfully requests that this Court approve and enter the proposed Settlement Agreement between the Plaintiff and the Defendants in this case.

On September 13, 2005, the United States lodged a proposed Settlement Agreement with this Court pending solicitation and consideration of public comments, pursuant to 28 C.F.R. § 50.7. On September 22, 2005, notice of the settlement was published in the Federal Register, 70 Fed. Reg. 55627 - 28 (2005), which marked the beginning of a public comment period. Because this Federal Register Notice did not recite the length of the public comment period, on October 6, 2005, the United States published an amended notice of settlement in the Federal Register, 70 Fed. Reg. 58470 - 71 (2005), which marked the beginning of a 15-day comment period. EPA has received no comments on the proposed Settlement Agreement.

The United States submits that the Settlement Agreement is fair, reasonable and in the public interest, and should be approved by this Court. In support of this Motion, the United States relies upon the supporting memorandum of law, submitted herewith.

For the reasons set forth in the accompanying Memorandum, the United States' Motion should be granted, and the Settlement Agreement, which resolves this matter between the Plaintiff and Defendants, should be entered by this Court.

WHEREFORE, the United States respectfully requests that the Court sign and enter the Settlement Agreement lodged with the Court on September 13, 2005.

Respectfully submitted,

KELLY A. JOHNSON
Assistant Attorney General
Environment and Natural Resources Division

/s/ Henry Friedman
HENRY S. FRIEDMAN, Senior Attorney
USDC No. G00105
JEROME MACLAUGHLIN, Trial Attorney
Environmental Enforcement Section
Environment and Natural Resources
Division
U.S. Department of Justice
Benjamin Franklin Station
P.O. Box 7611
Washington, D.C. 20044
(202) 514-5268

H.S. GARCIA
United States Attorney
District of Puerto Rico

ISABEL MUNOZ
Assistant United States Attorney
USDC No. 128302
District of Puerto Rico
Federal Building, Room 452
Chardon Avenue
Hato Rey, Puerto Rico 00918
(787) 766-5656

OF COUNSEL:

ERIC SCHAAF, Regional Counsel
NAOMI SHAPIRO, Assistant Regional Counsel
LOURDES RODRIGUEZ, Assistant Regional Counsel
U.S. Environmental Protection Agency Region II
290 Broadway, 16th Floor
New York, New York 10007
(212) 637-3221